

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONALD A. DELATEUR,

Defendant.

CASE NO. CR18-5364 BHS

ORDER

This matter comes before the Court on the United States Probation Office's Request to Modify Conditions of Release for Defendant Donald A. Delateur, Dkt. 84. The Court has considered the briefing filed in support of and in opposition to the motion and the remainder of the file and denies the motion for the reasons stated below.

In 2018, Delateur was indicted on one count of Receipt of Child Pornography in violation of 18 U.S.C. §§ 2252(a)(2), (b)(1). Dkt. 12. Delateur pled guilty to that offense in January 2019. Dkt. 27. This Court sentenced Delateur to 48 months imprisonment followed by a lifetime term of supervised release. Dkt. 46.

Delateur moved for compassionate release in May 2020, arguing that he was 61 years old and that he had serious medical conditions that placed him at high risk of

1 serious illness or death if he were to contract COVID-19. Dkt. 70. He also argued that the
2 18 U.S.C. § 3553(a) sentencing factors supported his release because he could adequately
3 be confined at home and because he was eligible to receive medical care through the VA.
4 *Id.* The Government did not dispute that Delateur established extraordinary and
5 compelling reasons warranting release, but argued that the § 3553(a) sentencing factors
6 weighed against release. Dkt. 72. The Court granted Delateur's motion, concluding that
7 the majority of the § 3553(a) factors supported release because he raised serious
8 questions about his ability to receive adequate medical care while incarcerated and
9 because his risk of reoffense could be mitigated with home confinement. Dkt. 82. The
10 Court reduced Delateur's term of imprisonment to time served, required him to be
11 released to an RRC, and required him to participate in a location monitoring program
12 until February 22, 2023. *Id.*

13 The United States Probation Office now requests that the Court modify Delateur's
14 conditions of release by removing the location monitoring condition. Dkt. 84. Probation
15 asserts that such a modification is warranted because Delateur has progressed while on
16 supervision and has complied with his terms of supervised release. *Id.* Delateur concurs,
17 but the Government does not endorse the requested modification. Dkt. 85.

18 The Court **DENIES** Probation's request to modify Delateur's conditions of
19 release, Dkt. 84. Delateur has performed well under supervision, but the location
20 monitoring condition is a substitute liberty restriction that allowed for his early release
21 from prison. Location monitoring was a specific condition of Delateur's early release
22 from prison and the Court explicitly concluded that the § 3553(a) factors only weighed in

1 Delateur's favor because he could be appropriately monitored at home with strict
2 conditions of supervision, including location monitoring. *See id.*

3 IT IS SO ORDERED.

4 Dated this 12th day of August, 2022.

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7 BENJAMIN H. SETTLE
United States District Judge
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